

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-adoption Statement of Reasons)

Amend Section 677
Title 14, California Code of Regulations
Re: Dog Training and Organizational Field Trial Permits

I. Date of Initial Statement of Reasons: November 6, 2003

II. Date of Pre-adoption Statement of Reasons: February 23, 2004

III. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: December 4, 2003
Location: Sacramento

(b) Discussion Hearing: Date: February 6, 2004
Location: Long Beach

(c) Adoption Hearing: Date: April 1, 2004
Location: Sacramento

IV. Description of Modification of Originally Proposed Language of Initial Statement of Purpose:

Originally proposed language for Subsection 677(a), addressing dog training where no birds are released or taken, stated that, for the purposes of this section, training a dog on wild or domestically reared game birds is not "take", so long as no birds are killed or injured. The proposed new language deletes this reference to "take", and provides that a person may train dogs to retrieve, or to point or flush game birds, or may participate in field trials or similar events related to these activities, at any time of year from sunrise to sunset if no wild birds are captured, injured, or killed and if no firearms or other means of take are possessed in the field. The proposed language for Subsection 677(a) was also modified to clarify that dogs may not be allowed to pursue birds that are protected under state or federal law.

Originally proposed language for Subsection 677(b)(4)(A), which addresses marking of birds prior to release, stated that all domestically reared game birds used for dog training or field trials shall be marked with streamers, coloring, or other conspicuous material prior to their release, but provided that the Regional Manager could exempt all or portions of a Region from this requirement. The proposed amended language would provide that the Regional Manager may require that released game birds shall be so marked, if the Department determines that there is a need to distinguish them from other game birds at a particular location. Other minor modifications were made for clarity.

V. Reasons for Modification of Originally Proposed Language of Initial Statement of Reasons:

Modifications in the originally proposed language were made to clarify that it is a violation to be hunting under the pretense of dog training, and to require the marking of domestically reared game birds before release only in those locations where the Department determines that this is necessary to distinguish them from wild birds.

VI. Summary of Primary Considerations Raised in Opposition and in Support:

Two people addressed the proposed changes in Section 677 at the discussion hearing on February 6, 2004, and one written proposal was received:

Description of Proposed Action by Public:

Recommended that the Commission accept the Department's recommendations, as proposed.

Proposal Source:

Bill Daley
Torrance, CA

Recommendation:

Accept.

Description of Proposed Action by Public:

Recommendation that the Commission adopt all proposed changes in Section 677, except the modifications in the originally proposed language in 677(a), which addresses dog training without releasing or taking birds.

Proposal Source:

Florence Sloan
San Diego, CA

Recommendation:

Accept, in part.

Analysis:

The proposed regulations was amended on the recommendation of the Enforcement Branch to clarify that it is a violation to be hunting under a pretense of dog training. The Department believes this proposal is reasonable. This modification in Subsection 677(a) will clarify that a person may train dogs to retrieve, or to point or flush game birds if no wild birds are captured, injured or killed and if no firearms or other means of take are possessed in the field.

Description of Proposed Action by Public:

Eliminate requirement to mark birds prior to release.
Omit reference to domestic pigeons.
Include "hunt test" with field trials.

Proposal Source:

Jay Bodutch
German Shorthair Pointer Club of Northern Sacramento Valley

Recommendation:

Accept, in part.

Analysis:

The Department's proposal to require that released birds be marked to distinguish them from wild birds where necessary is reasonable, and no significant change from existing regulations.

The reference to domestic pigeons was added, at the request of dog trainers, to make it clear that pigeons could be used for training.

The term "hunt test" is now included under 677(b)(2).

Updated Informative Digest/Policy Statement Overview

Sections 3509 and 3510 of the Fish and Game Code, which addressed dog training and field trials using released domesticated game birds, were repealed in 2002. Section 3508 was amended to provide that the Fish and Game Commission authorize procedures for training dogs using game birds. These changes to the Fish and Game Code were made because of complaints by dog training and field trial enthusiasts that the existing code sections were difficult to understand, overly complicated, and unnecessarily restrictive. One of the deleted code sections established prices for dog training and organizational field trial permits.

The changes being proposed to Section 677 of Title 14 are intended to provide reasonable and clear regulations addressing these activities. In addition, the proposed revised language deletes the requirement for the permits, requires that the Department be notified before field trials and hunt tests occur, requires that game birds be marked before release (if the Department determines that this is necessary in specific locations), and that the carcasses of pheasants and chukars used in dog training be marked with a seal obtained from the Department.

The amended language was added and/or deleted to clarify that it is a violation to be hunting under a pretense of dog training, to clarify that dogs may not be allowed to pursue birds protected by state or federal law, and to require the marking of domestically reared game before release only in those locations where the Department determines that this is necessary to distinguish them from wild birds.

The following is a summary of the changes proposed for Section 677, Title 14, CCR:

- Clarify that it is not a violation to train dogs to retrieve, or to point or flush game birds at any time of year from sunrise to sunset, if no wild birds are captured, killed, or injured, and if no firearms or other means of take are possessed in the field.
- * Clarify that dogs may not be allowed to pursue any birds that have special protection under California or federal law.
- Delete the requirement that permits be purchased to release and take game birds for dog training and field trials.
- Provide that bobwhite quail, coturnix quail, domestic pigeons, and domestically reared pheasants, chukars, Hungarian partridges, and captive-reared mallard ducks may be released and taken when engaged in dog training or organizational field trials, under the following stipulations:
 1. Each person taking game birds possess a hunting license and upland game bird stamp, if appropriate.
 2. Persons releasing and/or taking game birds in accordance with this section during organized field trials or hunt tests shall notify the Department at least three business days before these activities occur.
 3. Domestically reared game birds may be taken only on the day they are released.
 4. All domestically reared game birds shall be marked prior to release, if the Department determines that this is necessary to distinguish them from wild birds in a particular location, and carcasses of chukars and pheasants shall be marked with seals obtained from the Department.
 5. The Department may inspect all birds prior to release, and no birds may be released if the Department determines that such releases may have significant potential to transmit diseases to wild bird populations.